June 25, 1998

Gaspar Torres
Deputy Air Quality Control Officer
Imperial County APCD
150 S. 9th Street
El Centro, CA 92243-2801

Dear Mr. Torres:

The purpose of this letter is to provide our comments on the proposed Imperial County APCD title V permit for SFPP, L.P., which was received by EPA on May 13, 1998. In accordance with 40 CFR §70.8(c), and ICAPCD Rule 900 E.5.b, the EPA has reviewed the proposed permits during our 45-day review period. Our comments are enclosed.

Several concerns arose during our review of the proposed permit. The permit lacks periodic monitoring for several emission limits. Since this is the District's first proposed title V permit, EPA understands that there may have been some uncertainty on the District's part with respect to its authority to use the title V permit writing process to add additional periodic monitoring requirements to the permit, when existing applicable requirements do not contain sufficient monitoring. Our comments address both the general principle of adding periodic monitoring to title V permits, and the specific cases in the permit where monitoring is insufficient or missing.

In addition, it is not clear at this point whether the Gasoline Distribution NESHAP (National Emission Standard for Hazardous Air Pollutants), 40 CFR 63 Subpart R, applies to SFPP, L.P. The permit does not contain any NESHAP provisions; yet it is not clear from SFPP's title V permit application that its potential to emit for HAPs is below the major source threshold.

The District has stated that it will add a compliance schedule to the permit, so that it can issue a final permit while the source is out of compliance with the opacity requirement on the vapor combustor stack. EPA and the District agree that this revised permit will undergo a second EPA review, and that the District will not issue a final permit until the periodic monitoring and NESHAP issues have been resolved.

EPA recognizes the hard work that has gone into the drafting of the permit, and looks forward to working with you and your staff to resolve these issues. If you have any questions concerning our comments, please do not hesitate to contact Roger Kohn of my staff at (415) 744-1238.

Sincerely,

Matt Haber
Chief, Permits Office
Air Division

enclosure

cc: Ray Menebroker, ARB
W. M. White, SFPP, L.P.

U.S. EPA Region 9 Comments
Proposed Part 70 Operating Permit Number 2046
SFPP, L.P.

1. The District has informed EPA that it will be adding a compliance schedule to the permit, so that it can issue a final permit while the source is out of compliance with the opacity requirement on the vapor combustor stack. Such a change would require a second 45-day review by EPA. The District has agreed that the permit will undergo EPA review again after the compliance schedule is added.

2. Since this is the first title V permit proposed by Imperial County APCD, the District expressed doubt about whether or not it can use the title V permit writing process to add additional periodic monitoring requirements, prior to and during EPA's 45-day review period. In fact, the District has both the authority and the obligation to add additional monitoring requirements via the title V process.

Section 504 of the CAA is clear that each Title V permit must include "conditions as are necessary to assure compliance with applicable requirements of [the Act], including the requirements of the applicable implementation plan" and "inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions." (42 U.S.C. §7661c(a),(c)). No unit at a title V source, including a unit subject to only generic applicable requirements, is exempt from permit content requirements, including the requirement that the permit contain monitoring, compliance certification, and reporting requirements to assure compliance with permit terms and conditions. As stated in the preambles to the proposed and final part 70 regulations (see 56 FR 21733, 56 FR 21738, and 57 FR 32278), periodic monitoring applies to each applicable requirement lacking adequate monitoring, including each requirement in a SIP, NESHAP or NSPS (see 40 CFR 70.6(a)(3)(B)). The periodic monitoring requirement applies independently of the CAM rule, which was promulgated on October 22, 1997 (62 CFR 54899-54947).

Where an existing applicable requirement does not require periodic testing, instrumental monitoring, or non-instrumental monitoring such as record keeping that assures compliance, a source owner or operator is responsible for proposing a periodic monitoring approach to the

permitting authority for each applicable requirement. In most cases, a facility will already be conducting monitoring that may satisfy, or be a starting point for Title V periodic monitoring conditions. By focusing monitoring on detecting and correcting changes in normal operations before they become violations, rather than simply noting violations when they occur, periodic monitoring enhances the ability of the permit to assure compliance. Being familiar with the circumstances that cause deviations at an emissions unit, an owner or operator can apply the knowledge gained from periodic monitoring to take corrective action to minimize or eliminate the circumstances causing the deviations.

The permitting authority must use its expertise to review and assess the adequacy of the proposed approach. As required by part 70, the permit must contain "compliance certification, testing, monitoring, reporting, and record keeping requirements sufficient to assure compliance with the terms and conditions of the permit." Periodic monitoring must be "sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit..." Similar language is found in District Rule 900.F.2.e, "Monitoring, Testing, and Analysis." Should the permitting authority find the source's proposed approach to be deficient, the permitting authority must either request that the owner or operator propose additional monitoring, or impose additional monitoring. The selection of monitoring should be based on a technical showing of whether the additional monitoring will assure compliance with the permit. The technical basis for monitoring decisions, including the decision to apply no additional monitoring, should be made available to the public by the permitting authority.

EPA has issued draft guidance on periodic monitoring in a document dated May 11, 1998. The District may find this useful in making future periodic monitoring decisions.

3. In its Statement of Basis, the District indicates that it is removing a one ton per year NOx limit for the vapor processing system, and extending the requirement to submit a report of a performance test from 21 days to 60 days. Both of these requirements originate in Authority to Construct permit 2046. All terms and conditions of District New Source Review (NSR) permits, with the exception of certain state air toxics provisions, environmentally insignificant conditions, and obsolete conditions relating to actual construction, are federally enforceable and must be incorporated into title V permits. These applicable requirements are based on the District's NSR program, and cannot be revised or deleted without following the District's NSR procedures.

EPA's "White Paper for Streamlined Development of Part 70 Operating Permit Applications" (July 10, 1995) contains a discussion of how NSR permit terms can be revised, deleted, or reclassified as a State-only enforceable term during the title V permit issuance process. Specifically, the White Paper states:

The EPA believes that the part 70 permit issuance process, involving as it does review by the permitting authority, public, and EPA, presents an excellent opportunity for the permitting authority to make appropriate revisions to a NSR permit contemporaneously with the issuance of the part 70 permit. The public participation procedures for issuance of a part 70 permit satisfy any procedural requirements of Federal law associated with any NSR permit revision. This parallel processing approach is also an excellent opportunity to minimize the administrative burden

associated with such an exercise. By conducting a simultaneous revision to the NSR permit, the permitting authority would be revising the "applicable NSR requirement" for purposes of determining what must be included in the part 70 permit. (page 12)

Thus while a permitting authority may delete or revise federally enforceable applicable requirements that originate in NSR permits, it must follow its NSR procedures and document the process in its title V analysis. In order to pursue the parallel processing approach, the District must explicitly state in its public notice for a proposed title V permit that NSR conditions are being revised or deleted. The District has not done this for the SFPP permit. EPA could object to the issuance of a proposed title V permit on the basis that it failed to include all applicable requirements, including federally enforceable NSR conditions. However, due to the relative environmental insignificance of the two changes (removing a one ton per year NOx limit at a source that is major for VOC and retains its ppm NOx limit, and extending the submittal deadline for performance test reports), EPA does not wish to delay issuance of the title V permit, and is not objecting to the permit.

4. During its review, EPA raised the question of whether or not the Gasoline Distribution NESHAP (National Emission Standard for Hazardous Air Pollutants), 40 CFR 63 Subpart R, applies to the source. While the source's title V permit application contains HAP emission calculations, it is not clear if these calculations represent actual emissions or potential to emit. Also, the calculations do not address potential MBTE emissions, which frequently determine whether a facility is subject to Subpart R.

The District should require the source to demonstrate that its potential to emit (PTE), as defined in 40 CFR 63.2, is below the major source threshold of 10 tpy of a single HAP or 25 tpy of any combination of HAPs. If the PTE is above the major source threshold, the source could still take a federally enforceable limit that would reduce its PTE and keep it out of the NESHAP, such as a limit on its hours of operation or a minimum destruction efficiency for the vapor processing system. If the source requests it, the District may use the title V issuance process to add such limits.

The District has agreed that it will not issue a final permit until this applicability question has been resolved.

5. The permit contains both generally applicable and equipment-specific opacity requirements, but no conditions requiring the source to demonstrate compliance. The District must add visible emissions monitoring to the final permit to assure compliance with the opacity requirements, and to generate data for annual title V compliance certifications. EPA sent (via e-mail) suggested permit language to the District on June 10, 1998. This language requires daily inspections if three or fewer exceedances have been recorded at any emission point within the last six months. If any visible emissions, excluding condensed water vapor, are detected during an inspection and the emissions are observed continuously or intermittently for 3 minutes, corrective action or EPA Method 9 within three days is required. The language also contains record keeping requirements. While the periodic monitoring for opacity in the final permit does not have to contain the exact

language EPA suggested, it must be sufficient to assure compliance with the opacity requirements. The District has agreed not to issue the final permit until EPA concurs that there is sufficient periodic monitoring for opacity.

6. Condition V.B.1 states that the District may conduct a performance test at the vapor combustor stack "upon request of the APCD." However, the permit does not specify any frequency for the periodic monitoring regime described in section V.B. This lack of regular testing to ensure compliance with the 90% hydrocarbon destruction efficiency requirement (condition III.B.11) is problematic. EPA recommends that the District use the gap-filling authority in District Rule 900.F.2.e to require an annual stack test to determine compliance with this condition. In a telephone conversation on June 10, 1998, the District agreed to add this annual source testing requirement to the final permit.

7. In conjunction with the annual source test requirement, EPA believes the periodic monitoring of the vapor combustor stack should be enhanced by the addition of a provision similar to the New Source Performance Standards requirement that the presence of a flare pilot flame be monitored with a thermocouple or any other equivalent device to detect the presence of a flame (General Provisions, §60.18(f)(2)). The District suggested that the vapor combustor stack may currently be configured so that the process halts if a pilot flame is not detected. Such an approach would be acceptable, provided that a condition prohibiting loading rack use if the pilot flame is not present is added to the final permit. In a telephone conversation on June 10, 1998, The District agreed to adopt one of these approaches in the final permit.

8. The permit lacks periodic monitoring to assure compliance with the sulfur dioxide limit of 0.2 percent by volume, in condition III.B.10. It may be possible to demonstrate in an engineering analysis that, based on the low sulfur content of the fuels stored and transferred at the facility, this limit could never be exceeded. If this were true, no additional periodic monitoring would be necessary, provided that the permit limits the source to low sulfur fuels. If the sulfur content of the fuels varies, the District should add a record-keeping requirement to the permit to keep track of the sulfur content of all fuels stored and transferred at the facility. In a telephone conversation on June 10, 1998, the District agreed that it will not issue the permit until it submits to EPA an engineering analysis that demonstrates that the source will be in compliance with the sulfur dioxide limit.

9. The permit lacks periodic monitoring to assure compliance with the vapor combustor stack's NOx limit of 53 ppmv. EPA recommends that the District add periodic monitoring to the permit to assure compliance with this federally enforceable limit.

10. The proposed permit is missing two core requirements of Part 70 and District Rule 900. Section F.2 of Rule 900 states that "all permits to operate shall contain the conditions or terms consistent with 40 CFR Part 70.6 Permit Content." The missing Rule 900 requirements are F.2.g.4, which sets our the requirements for progress reports on compliance schedules for sources out of compliance, and F.2.l.2, which describes the source's obligation to notify the District within two weeks of an emergency event. These requirements must be included in every title V permit.

11. The permit is missing the requirement from the New Source Performance Standard, Subpart XX, that the owner or operator use Method 21 immediately before conducting the source test, and repair any leaks with readings of 10,000 ppm (as methane) or greater before conducting the test [40 CFR 60.503(b)]. This requirement should be added to the permit.

12. The five year record retention requirement in §70.6(a)(3)(ii)(B), while applied correctly in condition VI. 9, is inconsistently applied in the rest of the permit. For example, conditions VI. 5, 6, and 7 require that records be retained for only two or three years. Since condition VI. 9 correctly requires that all records be kept five years, these additional references to shorter record retention periods are confusing. The five year requirement supersedes, and assures compliance with, any shorter record retention requirements. A source that disposes of records after two or three years would be in compliance with the applicable requirements that call for these shorter record retention periods, but in violation of Part 70 and District Rule 900.

If the District wishes to specify record retention requirements throughout the permit, five years should be consistently specified. The origin and authority in these cases should reference both the rule with the shorter record retention requirement and Part 70 or Rule 900.

13. The citation of the origin and authority of each permit condition should be to the specific provision (i.e., subsection) of the rule so it is clear what portion of the applicable requirement is being addressed. The District has done this in some cases, for example in condition V.A.1. However this practice is not consistent and in some cases, the District has used one high level citation for a group of conditions, as in the citation for conditions IV.A.1.a.through e. This makes it more difficult for EPA and citizen permit reviewers to trace the permit conditions back to their origins within a given District Rule.

14. Conditions III.C.1, 2, and 4 address the emergency fire pump's hours of operation, operation for other than maintenance, and the installation of an operating hour meter, respectively. It is somewhat confusing to see these conditions in the "Emission Limits" section of the permit, since they do not pertain directly to emissions. The District may want to consider moving them to the "Operational Limits" section.

Typographical an Other Errors

15. Condition III.A.1.c, requiring a vapor recovery system, is duplicated in condition IV.A.3.a. EPA requests that the District either explain the apparent duplication, or remove one of the conditions.

16. Condition III.C.3 contains an extra letter (h) in the word "greater": greather.

17. Condition IV.A.1.b has an underline character instead of a number prior to the word "inch."

18. Condition V.B.1 should read "...no later than 30 days after the vapor combustor starts operation...".